

Message Text

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C O N F I D E N T I A L MOSCOW 04440

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FOR GARRISON FROM MATLOCK

E.O. 11652: GDS
TAGS: OGEN
SUBJECT: OFFICIAL INFORMAL

1. PNE LETTER WAS DELIVERED MARCH 10.
 2. CODEL PRICE: IT SEEMS CLEAR THAT CODEL WILL NOT RPT NOT BE INVITED AS OFFICIAL GUESTS. FEDOSEYEV SAID POINT-EDLY THAT ARRANGEMENTS SHOULD BE MADE THROUGH INTOURIST.
 3. RE ADDITIONAL HOUSING: WE RECEIVED A NOTE FROM UPDK TODAY (TEXT SEPTTEL) WHICH STATES THAT THE SEVEN ADDITIONAL APARTMENTS DUE US WILL NOT BE AVAILABLE BEFORE "MAY-JUNE." THIS DELAY WILL HAVE A DEFINITE IMPACT ON PERSONNEL ASSIGNMENTS THIS SUMMER WHICH WE WILL ANALYZE AS SEPTTEL. ALL OF THIS LEADS US TO YOUR PROPOSALS IN STATE 61728. WE ARE A BIT CONCERNED THAT THE EFFECT OF DENYING UTILITIES (WATER, SEWER, ETC.) AT THE MOUNT ALTO CONSTRUCTION SITE WILL BE TOO SLOW TO HELP US. UNLESS WE RECEIVE THE SEVEN ADDITIONAL APARTMENTS BY APRIL 1, THERE IS NOTHING WE CAN DO TO AVOID THE POSTPONEMENT OF ASSIGNMENTS THIS SUMMER. ON THE OTHER HAND, IF THE DEPARTMENT DIRECTLY ORDERS THE U.S. CONTRACTOR TO HALT
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WORK AT MOUNT ALTO, THEN IT SEEMS LIKELY TO US THAT HE MAY WELL BE RESPONSIBLE FOR ALL COSTS ARISING FROM THE DELAY. THEREFORE, WE OFFER THE FOLLOWING IDEAS, WHICH MUST BE CAREFULLY CHECKED IN WASHINGTON FOR THEIR LEGALITY AND FEASIBILITY. THE FIRST SUGGESTION IS TO TAKE THE POLITICAL DECISION TO TELL THE SOVIETS THAT THEY MUST CEASE CONSTRUCTION BECAUSE THEY ARE IN DEFAULT OF THE

MARCH 26 PROTOCOL WHICH PERMITTED THEM TO BEGIN THEIR PROJECT. IF WE FORCE THE SOVIETS TO ORDER A HALT IN CONSTRUCTION RATHER THAN DIRECTING THE CONTRACTOR TO DO SO, THEN PRESUMABLY THE SOVIETS WOULD BE RESPONSIBLE TO THE CONTRACTOR FOR ANY EXTRA COSTS ARISING FROM THE DELAY. OUR SECOND SUGGESTION, WHICH COULD BE USED INDEPENDENTLY OF THE FIRST, INVOLVES TRAVEL RESTRICTIONS. WE COULD DECLARE THE CONSTRUCTION SITE A CLOSED AREA TO ALL SOVIET PERSONNEL. THIS APPROACH HAS THE ADVANTAGES OF BEING SOUNDLY BASED IN TRADITION AND REGULATION AND IT WOULD NOT PRESUMABLY AFFECT THE U.S. CONTRACTOR DIRECTLY. WE ARE ASSUMING THAT THE SOVIETS WOULD NOT WISH CONSTRUCTION TO CONTINUE FOR LONG WITHOUT THEIR INSPECTION AND SUPERVISION AND WOULD THEMSELVES ORDER THE CONTRACTOR TO CEASE WORK. WE KNOW THAT THE DEPARTMENT MUST CAREFULLY WEIGH THE LEGAL AND POLICY IMPLICATIONS OF EACH OF THESE OPTIONS. WE HAVE NO IDEA, FOR EXAMPLE, IF THE U.S. CONTRACTOR HAS A FORCE MAJEURE CLAUSE AND WHETHER IT WOULD LEGALLY PROTECT HIM FROM EXTRA COSTS IN THE EVENT THE DEPARTMENT ORDERED HIM DIRECTLY TO CEASE WORK.

2. AMBASSADOR RAISED MATTER WITH KORNIYENKO TODAY. WE SHOULD GIVE MFA A FEW DAYS TO REACT TO AMBASSADOR'S DEMARCHE AND THEN GO IN WITH IDENTICAL NOTES IN WASHINGTON AND MOSCOW STATING FORMALLY THAT THE SOVIETS ARE IN DEFAULT OF THE MARCH 26 PROTOCOL, AND THEY WILL BE RESPONSIBLE FOR THE FINANCIAL AND OTHER CONSEQUENCES,

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NOTING THESE CONSEQUENCES ARE A DIRECT RESULT OF SOVIET FAILURE TO MEET CLEAR, WRITTEN COMMITMENTS. THE DEPARTMENT SHOULD PROVIDE US WITH TEXT OF THE NOTE AND IT SHOULD BE JOINTLY GIVEN TO THE SOVIETS IN WASHINGTON AND MOSCOW THIS WEEK. AFTER WAITING PERHAPS A WEEK, WHICH WOULD ALSO GIVE US TIME TO STUDY IN DEPTH THE PROPOSALS LISTED ABOVE, WE SHOULD INFORM THE SOVIETS OF OUR DECISION AND IMPLEMENT IT (VIZ. EITHER OF TWO OPTIONS SET FORTH ABOVE). FROM OUR POINT OF VIEW ONLY STRONG, EVEN PAINFUL PRESSURE ON MFA WILL GET THE DESIRED RESULTS. WE ARE CONVINCED UPDK SIMPLY DOES NOT HAVE THE HOUSING AND A POLITICAL DECISION IS NECESSARY AT A FAIRLY HIGH LEVEL TO FORCE MOSSOVET TO REALLOCATE ADDITIONAL APARTMENTS TO UPDK. TOON

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